

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GUARDIAN INDUSTRIES CORP.,)
v.)
Plaintiff,) C.A. No.: 05-27-SLR
)
DELL, INC.; GATEWAY, INC.; HEWLETT-PACKARD CO.; ACER INC.; ACER AMERICA CORP.; AOC INTERNATIONAL; ENVISION PERIPHERALS, INC.; TPV TECHNOLOGY, LTD.; TPV INTERNATIONAL (USA), INC.; AU OPTRONICS CORP.; AU OPTRONICS CORPORATION AMERICA a/k/a AU OPTRONICS AMERICA, INC.; BENQ CORP.; BENQ AMERICA CORP.; CHUNGHWA PICTURE TUBES, LTD. a/k/a CHUNGHWA PICTURE TUBES CO.; TATUNG CO.; TATUNG CO. OF AMERICA, INC.; BOE HYDIS TECHNOLOGY CO., LTD.; BOE HYDIS AMERICA INC.; CHI MEI OPTOELECTRONICS; COMPAL ELECTRONICS, INC.; HANNSTAR DISPLAY CORP.; JEAN CO., LTD.; LITE-ON TECHNOLOGY CORP.; LITE-ON, INC. a/k/a LITEON TRADING USA, INC.; MAG TECHNOLOGY CO., LTD.; MAG TECHNOLOGY USA, INC.; PROVIEW INTERNATIONAL HOLDINGS, LTD.; PROVIEW TECHNOLOGY, INC.; PROVIEW ELECTRONICS CO., LTD.; and QUANTA DISPLAY, INC.)
Defendants.)

GUARDIAN'S REPLY TO QUANTA DISPLAY INC.'S COUNTERCLAIMS

Guardian Industries Corp. (“Guardian”) replies to Quanta Display Inc.’s (“QDI”) counterclaims as follows:

REPLY TO COUNTERCLAIMS

121. Admitted.

122. Admitted.

123. Guardian admits that QDI's counterclaims purport to include claims for declaratory judgment of non-infringement and invalidity and that this Court has jurisdiction over the subject matter of these particular counterclaims, but denies that the counterclaims have any merit and denies that QDI is entitled to any of the relief sought in its counterclaims or Prayer. Guardian denies any and all remaining averments in Paragraph 123 of QDI's counterclaim.

124. Admitted.

125. Guardian admits that there exists an actual controversy between Guardian and QDI concerning infringement of the '214, '187, '065 and '588 patents. Guardian denies any and all remaining averments in Paragraph 125 of QDI's counterclaims.

126. Paragraph 126 of QDI's counterclaims is a request for relief, and does not state any allegation that calls for a response. QDI is not entitled to a declaration from the Court that QDI has not infringed any claim of the '214 patent, either directly, contributorily, or by inducement, or either literally or under the doctrine of equivalents. Guardian denies any and all remaining averments in Paragraph 126 of QDI's counterclaims.

127. Paragraph 127 of QDI's counterclaims is a request for relief, and does not state any allegation that calls for a response. QDI is not entitled to a declaration from the Court that QDI has not infringed any claim of the '187 patent, either directly, contributorily, or by inducement, or either literally or under the doctrine of equivalents. Guardian denies any and all remaining averments in Paragraph 127 of QDI's counterclaims.

128. Paragraph 128 of QDI's counterclaims is a request for relief, and does not state any allegation that calls for a response. QDI is not entitled to a declaration from the Court that QDI has not infringed any claim of the '065 patent, either directly, contributorily, or by

inducement, or either literally or under the doctrine of equivalents. Guardian denies any and all remaining averments in Paragraph 128 of QDI's counterclaims.

129. Paragraph 129 of QDI's counterclaims is a request for relief, and does not state any allegation that calls for a response. QDI is not entitled to a declaration from the Court that QDI has not infringed any claim of the '588 patent, either directly, contributorily, or by inducement, or either literally or under the doctrine of equivalents. Guardian denies any and all remaining averments in Paragraph 129 of QDI's counterclaims.

130. Guardian admits that there exists an actual controversy between Guardian and QDI concerning the validity of the '214, '187, '065 and '588 patents. Guardian denies any and all remaining averments in Paragraph 130 of QDI's counterclaims.

131. Paragraph 131 of QDI's counterclaims is a request for relief, and does not state any allegation that calls for a response. QDI is not entitled to a declaration from the Court that the '214 patent is invalid for failure to comply with the provisions of the patent laws, 35 U.S.C. §§ 100 *et seq.*, including but not limited to one or more of 35 U.S.C. §§ 101, 102, 103, and/or

112. Guardian denies any and all remaining averments in Paragraph 131 of QDI's counterclaims.

132. Paragraph 132 of QDI's counterclaims is a request for relief, and does not state any allegation that calls for a response. QDI is not entitled to a declaration from the Court that the '187 patent is invalid for failure to comply with the provisions of the patent laws, 35 U.S.C. §§ 100 *et seq.*, including but not limited to one or more of 35 U.S.C. §§ 101, 102, 103, and/or

112. Guardian denies any and all remaining averments in Paragraph 132 of QDI's counterclaims.

133. Paragraph 133 of QDI's counterclaims is a request for relief, and does not state any allegation that calls for a response. QDI is not entitled to a declaration from the Court that the '065 patent is invalid for failure to comply with the provisions of the patent laws, 35 U.S.C. §§ 100 *et seq.*, including but not limited to one or more of 35 U.S.C. §§ 101, 102, 103, and/or 112. Guardian denies any and all remaining averments in Paragraph 133 of QDI's counterclaims.

134. Paragraph 134 of QDI's counterclaims is a request for relief, and does not state any allegation that calls for a response. QDI is not entitled to a declaration from the Court that the '588 patent is invalid for failure to comply with the provisions of the patent laws, 35 U.S.C. §§ 100 *et seq.*, including but not limited to one or more of 35 U.S.C. §§ 101, 102, 103, and/or 112. Guardian denies any and all remaining averments in Paragraph 134 of QDI's counterclaims.

135. Guardian denies that QDI is entitled to recover any attorneys' fees and/or costs from Guardian and denies that any of Guardian's activities provide any basis for finding in favor of QDI on the issue of whether this is an exceptional case. Guardian does contend that certain defendants' activities, including potentially QDI, provide a basis for this Court to find, in favor of Guardian, that this is an exceptional case under 35 U.S.C. § 285, and to award Guardian its attorneys' fees and its costs incurred in connection with this litigation. Guardian denies any and all remaining averments in Paragraph 135 of QDI's counterclaims.

136. Admitted.

WHEREFORE Guardian respectfully submits that QDI's counterclaims should be dismissed, with costs assessed against QDI, and seeks such further relief as the Court deems appropriate.

* * * * *

Dated: June 1, 2005

/s/ Richard K. Herrmann
Richard K. Herrmann (I.D. No. 405)
MORRIS JAMES HITCHENS & WILLIAMS
222 Delaware Avenue, 10th Floor
Wilmington, Delaware 19801
302.888.6800
rherrmann@morrisjames.com

Robert G. Krupka, P.C.
Bryan S. Hales
Craig D. Leavell
Meredith Zinanni
Eric D. Hayes
KIRKLAND & ELLIS LLP
200 East Randolph Drive
Chicago, Illinois 60601
(312) 861-2000

Counsel for Plaintiff Guardian Industries Corp.

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of June, 2005, I electronically filed the foregoing document, **GUARDIAN'S REPLY TO QUANTA DISPLAY INC.'S COUNTERCLAIMS**, with the Clerk of the Court using CM/ECF which will send notification of such filing to the following:

Richard L. Horwitz, Esq.
 David E. Moore, Esq.
 Potter Anderson & Corroon
 Hercules Plaza, 6th Floor
 1313 N. Market Street
 Wilmington, DE 19801

Robert W. Whetzel, Esq.
 Matthew W. King, Esq.
 Richards, Layton & Finger, P.A.
 One Rodney Square
 Wilmington, DE 19801

Gerard M. O'Rourke, Esq.
 Connolly Bove Lodge & Hutz LLP
 1007 North Orange Street, P.O. Box 2207
 Wilmington, Delaware 19899-2207

Josy W. Ingersoll, Esq.
 Young, Conaway, Stargatt & Taylor LLP
 The Brandywine Building
 1000 West Street, 17th Floor
 Wilmington, DE 19801

Additionally, I hereby certify that on the 1st day of June, 2005, the foregoing document was served via email on the following non-registered participants:

Daniel T. Shvodian, Esq.
 Teresa M. Corbin, Esq.
 Howrey LLP
 301 Ravenswood Avenue
 Menlo Park, CA 94025-3434
shvodiand@howrey.com
corbint@howrey.com

Roderick B. Williams, Esq.
 Avelyn M. Ross, Esq.
 Vinson & Elkins
 2801 Via Fortuna, Suite 100
 Austin, TX 78746-7568
rickwilliams@velaw.com
aross@velaw.com

York M. Faulkner, Esq.
 Finnegan Henderson Farabow Garrett & Dunner
 Two Freedom Square
 11955 Freedom Drive
 Reston, VA 20190-5675
york.faulkner@finnegan.com

Peter J. Wied, Esq.
 Alschuler Grossman Stein & Kahan LLP
 1620 26th Street, Fourth Floor, N Tower
 Santa Monica, CA 90404-4060
pwied@agsk.com

Robert J. Gunther, Jr., Esq.
Kurt M. Rogers
Latham & Watkins
885 Third Avenue
New York, NY 10022
robert.gunther@lw.com
kurt.rogers@lw.com

Jeffrey A. Snyder, Esq.
Thoits, Love, Hershberger & McLean
245 Lytton Avenue, Suite 300
Palo Alto, CA 94301
jsnyder@thoits.com

Robert C. Weems, Esq.
Baum & Weems
58 Katrina Lane
San Anselmo, CA 94960
rcweems@comcast.net

E. Robert Yoches, Esq.
Finnegan Henderson Farabow Garrett & Dunner
901 New York Avenue, NW
Washington, DC 20001
bob.yoches@finnegan.com

/s/ Richard K. Herrmann

Richard K. Herrmann (#405)
MORRIS, JAMES, HITCHENS & WILLIAMS LLP
222 Delaware Avenue, 10th Floor
Wilmington, Delaware 19801
302.888.6800
rherrmann@morrisjames.com

Counsel for Plaintiff Guardian Industries Corp.